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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/912,873 | 07/25/2001 | Akito Kohno | 393032027100 | 7246 |
| 25224 | 7590 | 01/12/2006 | EXAMINER | |
| MORRISON & FOERSTER, LLP 555 WEST FIFTH STREET SUITE 3500 LOS ANGELES, CA 90013-1024 | | SELLERS, DANIEL R | | |
| | | ART UNIT | | PAPER NUMBER |
| | | 2644 | | |

DATE MAILED: 01/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 09/912,873 | KOHNO ET AL. | |
| | Examiner | Art Unit | |
| | Daniel R. Sellers | 2644 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 12 October 2005.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-7 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-7 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 25 July 2001 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ . |

DETAILED ACTION***Claim Objections***

1. Claim 2 is objected to because of the following informalities: The amendment filed October 12, 2005 has mislabeled claim 2 as a second claim 1. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Korg USA Inc., D8 Digital Recording Studio (hereinafter Korg).

4. Regarding claim 1, see Korg

1. *A recording/reproducing mixer, comprising:*

a recording/reproducing device that records and/or reproduces a plurality of audio signals in/from a plurality of tracks; (Par. 1, lines 1-7)
a track selector that selects a track of said recording/reproducing device; (Par. 3, lines 1-6)
a reader that reads audio signals of the selected track of said recording/reproducing device;
(Par. 4, line 3-4)

a mixing device that executes at least one process of equalizing, volume adjustment, and effect addition on the read audio signals; (Par. 2, lines 1-5 and Par. 5, lines 1-6)

a designator that designates a listening mode; and (Par. 4, lines 3-4)
an output controller that outputs the read audio signals bypassing said mixing device when the listening mode is designated, and outputs the read audio signals via said mixing device when the listening mode is not designated. (Par. 4, lines 10-11, Par. 5, lines 4-6, and Par. 6, lines 6-7)

Korg had a product on sale on April 22, 1999, which teaches and performs these features.

5. Regarding claim 2, the further limitation of claim 1, see Korg

... further comprising a read starting position designator that designates a read starting position of audio signals, wherein said reader starts reading from a position designated by said read starting position designator. (Par. 4, lines 5-6)

Korg's product had these features.

6. Regarding claim 3, the further limitation of claim 1, see Korg

... further comprising a position memory that memorizes a read starting position immediately before an operation mode is changed to the listening mode, wherein said reader starts reading audio signals starting at the read starting position memorized in said position memory, after the listening mode is terminated. (Par. 4, lines 5-9)

Korg's product had these features.

7. Regarding claim 4, see the preceding argument with respect to claim 1. Korg's product teaches this method.

8. Regarding claim 5, see the preceding argument with respect to claim 1. Korg's product teaches this storage medium storing a program.

9. Regarding new claim 6, see the preceding argument with respect to claim 1.

Korg's apparatus teaches the playback of audio without effects being added (see Par. 6, lines 3-6). The effects can be applied to any source.

10. Regarding new claim 7, see the preceding argument with respect to claim 1 and
6. Korg teaches these features, wherein the effects can be utilized or bypassed.

Response to Arguments

11. Applicant's arguments filed October 12, 2005 have been fully considered but they are not persuasive. Korg teaches these features as outlined above.

12. Regarding claim 1, Korg teaches the same or equivalent functionality using scene memories and "non-destructive" editing. The scene memories can be changed

during playback from a storage medium and the apparatus can apply editing effects during recording. The literature uses the phrase "can be applied" in paragraph 6, line 4, wherein the "... effects can be applied to any source while... recording [or in playback]...." The apparatus provides the user with ability to use the effects or to bypass them in the playback of stored audio data, or in a listening mode.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Vauclain, U.S. Patent No. 3,781,452, Lewis et al., U.S. Patent No. 4,224,644, Spector, U.S. Patent No. 4,509,190, and Lydecker et al., U.S. Patent Application Publication 2003/0028273.
14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel R. Sellers whose telephone number is 571-272-7528. The examiner can normally be reached on Monday to Friday, 9am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-272-7564.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DRS



HUYEN LE
PRIMARY EXAMINER